P.7. 113-93

G. R. S. IX-5]

Previous references.

1892-93
192
K.F

File No 174-92

Serial Nos. 1-6

Later references.

Rd 149-95

GENERAL AND REVENUE SECRETARIAT

Serial Nos. 1-6

~~Part B~~ for March 1894

SUBJECT.

Appeal of Lakshmiah and others, residing at Bailahalli Hesaru Taluk regarding the Khanabhoji of the said Village.

WD 2238—GPB—20,000—14-6-20

Ordered
HV

(13)

Precis

Posted 6-8-3-94.

Petition No 2581 of 1892-93.
do 2580 do.

Appellants:—
1 Lakshmaiya, alias Shamanna
2 Krishnappa
residing at Bailahalle
Hassan Taluk.

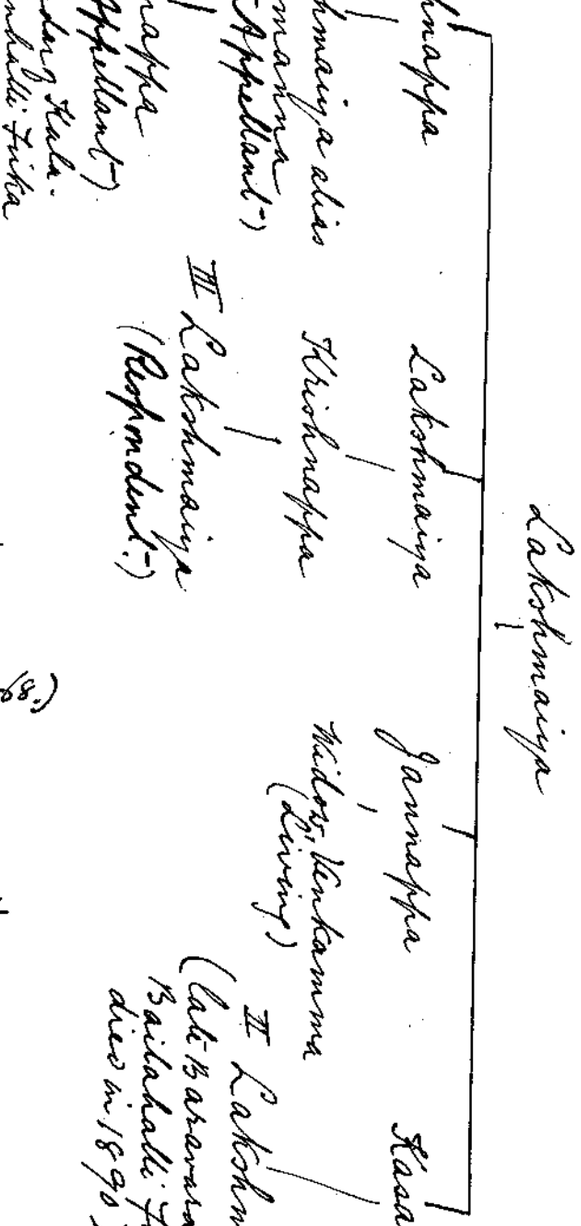
Respondent:—
Lakshmaiya son of
Chik Krishnappa, residing
in the same village.

The two Appellants have separately appealed to Government against the order of the Deputy Commr of Hassan, dated 2nd February 1893, appointing the Respondent to the office of Shanbhog of the Bailahalli Purka

2 The Appellants and the Respondents are descendants of two branches of the same

family as shewn in the Genealogical Table noted in the margin, and the 2nd Appellant is the son of the 1st Appellant.

The Shanbhogi of Baibahalli Zilka which originally consisted of 14 villages is hereditary to the family of the parties. The 1st Appellant was appointed to the office in 1856 and performed the duties as Registeredar Shanbhog (vide Extract from the Barabaluti Register for 1867-68.) till 1874 when he got the office registered in the name of his son Krishnappa the 2nd Appellant. The latter held the office till 1880. In that year he addressed a petition to the Amildar of Hassan stating that as it was impossible for one man to prepare the accounts of the Zilka in accordance with the Survey Rules, he has given to one half of the Zilka



consisting of Bailahalli and 4 other villages to the share of his uncle Kasaiya's son Lakshmaiya who was a Kiseedar to the Shanbhogi of the Tirka; and that he would continue to discharge the duties of the remaining 9 villages; and praying that the Baravand of the five villages might be made in the name of the said Lakshmaiya and the work may be got done by him.

* Marked II in the Genealogical Table.

4 The said Lakshmaiya (No II) having consented to the arrangement, the Amildar reported the matter to the Deputy-Commr stating as follows:—

* 20. 9. 1880

"..... The Petitioner must prepare, on his own responsibility, the Jamabandy accounts of the current year. His request may be complied with next year. There is no objection to make Baravand now, according to his wish.

If it will be ordered that he (Lakshmaiya) should do work on the Petitioner's responsibility till the accounts of this year will be completed, it will be convenient for him to learn work..."

On 24th September 1890 the Deputy Commissioner sanctioned the Amildar's proposal.

5 At the Survey Settlement which took place about the same time, the 5 villages which Lakshmaiya (II) got were reduced to 3 in number by amalgamation of some villages, and were named Bailahalli Firka, the other 9 villages which the 2nd Appellant retained for himself were similarly reduced to 8 in number and were named Kalatammanhalli Firka.

×	Basis according to Survey	Kist amount
1 Bailahalli Firka	Rs 2120-0-9	68-12-0
2 Kalatammanhalli Firka	Rs 1917-8-9	68-8-0

The said Lakshmaiya held the Shanbhogi of the new Bailahalli Firka till May 1890, when he died leaving no issue. Thereupon the 2nd Appellant Krishnappa began to discharge the duties of this Firka also.

Vide Amildar's Report No 1738 dt 14.5.90.

6 On 28.7.90, the Respondent Lakshmaiya (III) addressed a petition to the Amildar of Hassan

stating that in 1880 Krishnappa (2nd Appt) executed an agreement to the deceased Lakshmaiya (II) to the effect that two out of four shares into which the Shanbhogi of Bailahalli Firka was divided should be retained by himself, and that the other two shares be given to Lakshmaiya (III) and the deceased Lakshmaiya (II); that as he (Respt) was not then able to discharge the duties of his share of the Shanbhogi, the deceased Lakshmaiya did the duties of both the two shares. He prayed that he might be appointed in place of the deceased Lakshmaiya.

8. In the enquiry held by the Amildar on the 9th October 1890, the 1st Appellant deposed as follows:—

"Lakshmaiya Shanbhog of Bailahalli Firka died in May last. His wife too died. I performed their

funeral ceremonies of both.
His 3 villages and the 8 villages
of my son Krishnappa originally
formed one Firka. My
grandfather did the duties of
this Firka, then my father,
then myself and then my
son Krishnappa. . . . . .

Late Kasaiya's son Lakshmaiya
came in 1880 from Somarapete
in Coorg where he had gone
to earn his livelihood, and
requested that the Shanbhogi
should be divided and ~~and~~
some villages should be given
to him. I consented and caused
Bailahalli and 4 other villages
out of those ~~villages~~ that had
been registered in my son's name,
to be given to him for doing
work. This was sanctioned
by the Deputy Commr of
Hassan. In ~~the~~ 1st order of 18.10.80
issued by the Amildar ~~on~~
under the Deputy Comm's
order No 1851 of 24th September,
it is stated that Lakshmaiya
should do work on my son

Krishnappa's responsibility.

× × × × ×

"Since the said Lakshmaiya died without issue, since the Shanbhogi has been held by the representatives of the eldest branch of the original Baravanders family, and since I belong to that branch, the shanbhogi should be registered in my name. . . . . I heard the petitioner Krishnappa's son Lakshmaiya (P4) read. The shanbhogi was not included in the partition as stated by him. . . . . there is no reason for him to claim the office."

7. The Respondent deposed as follows:—

× × × × ×

"On 13th September 1880, Krishnappa executed an unstamped document to the deceased Lakshmaiya (P4) to the effect that my father and the deceased Lakshmaiya were entitled to half share

in the Shanbhogi of the 11 villages, that Lakshmaiya's(I) father and one Jannappa were entitled to the other half share, and that the deceased Lakshmaiya should hold ~~both the~~ this half share and ~~rejoice~~ belonging to me and himself. Since Lakshmaiya(II) who was doing duty according to the agreement died without any issue, and since I am Hakdar to half of the share held by him; the whole of it must be registered in my name. My father and grandfather never held this office..... I have produced a copy of the document above referred to. I have prepared this copy from the original (?) in the which was ~~in the~~ with Lakshmaiya(II). The original is not with me....."

The 2nd Appellant Krishnappa made the following statement:—

× × × × ×

"I was the Baravarddar of all the 11 villages and did duty till 1880, when on the deceased Lakshmaiya's request, I gave 3 villages to him. Even then, he was appointed on my responsibility.

× × × × ×

I do not consent to the office being registered in my father's name as requested by him, or in the name of Lakshmaiya (Respt). It must be registered in my name. . . . . .

I saw the copy of the document alleged to have been executed by me to the decead Lakshmaiya. This is not the original, but a copy. This is a thing that took place 10 years ago(?). This looks like a document executed by me independently. I will see whether I have any records to shew that it was

executed by me, and I will produce them if I find them. Or, even if there be no such records, there is no reason for having executed of this document without the knowledge of my father and of my brothers, nor is there any for giving effect to it."

11. The copy of the document produced by the Respondent runs thus.

"Document executed by by Krishnappa Shanbhog of Bailahalli to Kasaiya's son Lakshmaiya.... on the 13th September 1880..... The Shanbhogi of Bailahalli Firka has, as it is a fact, come down from our ancestors. As four persons, namely, my grandfather Krishnappa, Jannappa, Lakshmaiya and your father Kasaiya have

to get this office, my father and myself have hitherto done the work; as you asked for your share, the following settlement has been made. My grandfather Krishnappa and Jannappa, these two should have 9 villages, Kallahalli . . . . . , the jamabandi of which for Pramathi is Rs 1364-15-6. Your father's elder brother and your father Narasinja, these two have 5 villages, Bailahalli — . . . . . the jamabandi which for Pramathi is Rs 1371-10-0. Having made this settlement, I have put you in possession of two shares. Till your uncle Lakshmaiya's grandson comes to age, you alone must enjoy the two shares together. I will present a petition to the Taluk Cutcherry for the Baraval being made in your name. . . . ."

12. On the 16th December 1890, the Amildar reported to the Deputy Commr stating that Lakshmaiya (III) was not competent to discharge the duties of the office, that the (former) Registrdar and his son opposed his appointment, and that therefore Krishnappa (2nd Appt) who was the Shanbhog of Kalatammanhalli Firka might be appointed and Lakshmaiya (III) might be referred to Civil Courts to establish his Hak.

13. The Deputy Commissioner, in his order No 809 of 18. 1. 91 stated that by the nature of the Document ~~Do for copy of the~~ copy of which was produced was impliedly admitted by Krishnappa (2nd Appt), that by its nature, the deceased Lakshmaiya and the Petitioner Lakshmaiya (Respt)

were undivided hakdars to the Shanbhogi of Bailahalli which is one share, and Krishnappa (2nd Appt) and another Jannappa were similarly undivided Hakdars to the Shanbhogi of Kilalatimmanhalli which is the other share, that for each share one man hakdar had died without issue and Krishnappa and Lakshmaiya (Respts) remained for the 1st and the 2nd shares respectively and that such being the case Krishnappa's 'Takarar' was not reasonable. He directed the Amildar to advise the parties to effect an amicable settlement.

15. 8. 91

14. The Amildar reported

that Krishnappa did not consent to any settlement. Then the Deputy Commr sent for the parties and advised them to make an amicable settlement, but they failed to do so

Vide the Dy Comrs order No 132 of 10.8.92 & the Amildars report No 986 of 2.1.93.

In the meanwhile Lakshmaiya the 1st Appellant addressed a petition* to the Deputy Commr urging that he performed the funeral ceremonies of the deceased Lakshmaiya at a cost of Rs200, and liquidated his debts to the extent of Rs1000, and that therefore the Shanbhogi of the deceased man must be registered in his name

* 28.7.92

6. On the 2nd February 1893 the Deputy Commr passed order No 781 to the effect that it was clear that the Shanbhogi of Bailahalli & 2 other villages was given, as their half share, to the Petitioner (Respt) and the

deceased Lakshmanya, the representatives of the 2nd & the 4th branches of the family that since one of them died issueless the other (Respt.) who was a "Jantedar" had a hak to the office; that with regard to the claim of the defendants (Appts.) that the share given to the deceased should revert to them as they performed his obsequies and became responsible for his debts, they must be told to file a regular suit; that the vacant Shanbhogi of Bailahalli & two other villages should be registered in the name of Lakshmanya (Respt.), and that charge of the office should be handed over to him if he was competent to discharge the duties, and if not, a gumasta should be appointed on his behalf

7. The appellants have severally appealed against the above order on the following grounds:—

(1) That the Deputy Commr erred in ordering the registry of the office in the name of the Respondent.

(2) That the Deputy Commr erred in assuming that the Respondent was a "Jantidar".

(3) That the hak remained with the Appellants till 1880 as admitted.

(4) That the deceased Lakshmaiya did duties on behalf of the appellants.

(5) That after the death of Lakshmaiya without issue, the hak reverted to the appellant, and he has been doing duties on his own behalf.

(6) That the Deputy Commr erred in ordering the appellants to go to a Civil Court, instead of asking the Respondent to do so

× 2nd appellant

x
Res 469 13.7.93

11. The Deputy-Commissioner, in his long report, gives his reasons for appointing the Respondent.

S.V.
7/2/94

(11)

M. No. 2587 of 1893 & 94
181 of

Apltt
1 Lakshmia
alias Shanmuga
2 Dresharatha son
of the 1st apltt

Respt
Lakshmia son
of Dresharatha.

~~1st apltt's Mother~~

Respt is the uncle's grandson of the 1st apltt & represents one branch of the family & the apltt another.— The Barabhoji rights belonging to the family in the two Pattas of Baalahalli & Kalatammanahalli stood registered in the name of the 1st appellant, but he got it transferred in the name of his son the 2d appellant in 1874. The 2d appellant got the Baalahalli Patta transferred in 1880 in the name of ~~another~~ one Lakshmia son of Rasca who represented a third branch of the family & the latter died

in 1890 without issue
R respt claims the
legatee ~~matter~~ of ~~his~~
R deceased's Jukra in
her name on the ground that
it had been given to R
deceased both on ~~his~~
account of her share, on
~~that~~ of her own (respts')
In proof of her claim ~~that~~
he produced copy of
a document said to
have been executed by
R 2d appellant in 1888
to R deceased Lakshmia
in which it is stated that
~~R Ananta~~ Byle Gowda
was given to have both
on account of his share
~~that~~ of R respt R
only document is not
forthcoming & R to appl
does not admit that
he executed ~~R document~~ it
R Dy Cons observed

1st in Feby 1893

Deceased the Respt
in Exh. which a share
& believing his Students,
ordered that Upyalakalla
be registered in the
name of the Respt the
appeal is against the
order

Gov. consider
that in the absence
of the original document
said to have been
executed by the 2d
appellant admitting
the claim of the Respt,
the discharge of the
deceased Lakshma
Cour only be registered
in the name of his nearest
heir the 1st appellant
& direct that it be
registered accordingly

by the Respts

has any claim
to a share in the
shareholders of the
Bon Ferkas, he shall
establish it by a
regular Suit

CF
9/3/94 GM
9/

end
~~Appl~~
If any one has
been registered in register
B of Chilliwack last held
by LaRohma son of
Hisaspa, in the name
of his nearest heir, he
1st appl By Resp 56
has any claim to a share
in the Shareholders, he should
establish it by a regular
Suit
CF
GM

22 LR 174-92-1

(Original Serial No. 32.) (2)

1893

No. 9 ERA

Name of Petitioner. Krishnappa (by Mr. D. Venkataramiya

Village. Bylahally

Taluk. Hassan

District. Do

Date of Arzi. 11-4-93

Date of Receipt. 11-4-93

Date of Disposal.

No. of Enclosures. Two

ABSTRACT.

Appeals against the deputy Commrs order dated 2nd Feb: 1893, ordering the registry of the Shanbogue of Bylahalli in the name of the respondent prays that the order of the deputy Co disturbing the appellants possession may be held in abeyance pendg the disposal of this appeal

JAR 12/4.

Stamp appears to the Vakalat should be punched

BB 13/4

Fr Issue
Stamp insufficient
Copy of order appealed against produced.

The Dy Commr has ordered that the Baravani of Bailhalli and 2 other villages should be registered in the name of Petitioner (Respondent); that if the Respdt is competent to do the duties he should be given charge of them on probation for one year, and that if he is not competent a Gumasta should be appointed for them.

The order speaks of the office as having become vacant by the death of one Lakshmma of the 4th branch without issue, and as being vacant.

The appellant however states that he has been in possession of the office & doing the duties pertaining to it and prays that the Deputy Commrs order disturbing appellants possession may be suspended pending disposal of this appeal

Subpoenas.

The appellants father has filed a separate appeal from this same order. It is put up with this

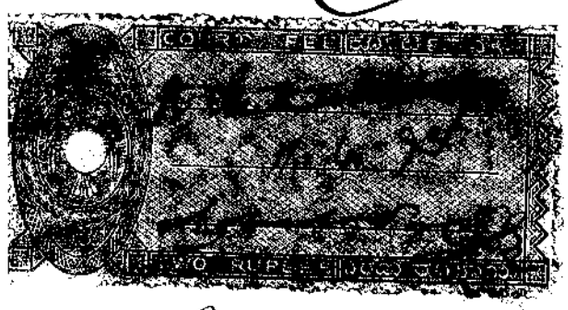
BB 14/4

Mysore Govt. Central Press Bangalore—7-9-92,—1000.

Presented by Advocate
Mr Venkatramaiya's
Gumasta
Mysore 11/4/93

23

(1)



Two Rupees

To The Government of Mysore
Bangalore.

MYSORE REVENUE OFFICE.
REGISTERED DEPARTMENT.
REG. 2580
DATE 11.4.93

A.S. No. 181 of 92-93
Revenue Appeal of 189

Appellant
Krishnappa, son of
Lukshmia, alias
Shamanna, residing
at Byalahully,
Hassan Taluk

Respondent
Lukshmia Son
of Chicka
Krishnappa
residing at
Do Do

The appellant above named begs to appeal against the order passed by the Dy Comr of Hassan dated 29 Feby 1893 on the following grounds:—

1. That the Dy Comr erred in making the registry in the name of the Respondent

2. That the Dy Comr erred in assuming that the respondent was a "jantidar

3. That the kuck remained with the appt till 1880 is admitted.

4. That the deceased Lukshmia was doing duty on behalf of the appellant.

5. That after the death of Lukshmia without issue the kuck reverted to the

Appt

Appellant and that the Appellant has been doing duties in his own right

6. That instead of ordering the respondent to go and establish his right the Dy Comr erred in ordering the Appellant to go to a civil Court.

For these reasons the Appellant prays that the order of the Dy Comr may be set aside

Pending the disposal of this Appeal the Appellant prays that he may be allowed to do duties as he has been doing hitherto and that the order of the Dy Comr disturbing the Appellant's possession may be held in abeyance.

D V Muthanna
Adv: for Appt

Bangalore
11th April 93

287 986/929

No: 781/62

(1/a)

ಶ್ರೀ ರಾಮಚಂದ್ರ ಕಂಪನಿಯವರಿಗೆ ಸಲ್ಲಿಸಿರುವ ಅರ್ಜಿಯ ಸಂಬಂಧದಲ್ಲಿ

ಅಂಚೆಯ ಮೂಲಕ ಕಳುಹಿಸಿರುವ ಪತ್ರಗಳನ್ನು ಕಳುಹಿಸಿದ್ದೇವೆ. ಇದರ

ಸಂಬಂಧದಲ್ಲಿ ಅವರಿಂದ ಯಾವುದೇ ಪತ್ರ ಬಂದಿಲ್ಲ. ಇದರ

ಸಂಬಂಧದಲ್ಲಿ ಅವರಿಗೆ ಪತ್ರ ಬರೆಯಲಾಗಿದೆ. ಆದರೆ ಅವರಿಂದ

ಯಾವುದೇ ಉತ್ತರ ಬಂದಿಲ್ಲ. ಆದ್ದರಿಂದ ಈ ಪತ್ರವನ್ನು

ಅಂಚೆಯ ಮೂಲಕ 18-1-91 ರಂದು ಕಳುಹಿಸಿದೆ. ಇದರ

ಸಂಬಂಧದಲ್ಲಿ ಅವರಿಂದ ಯಾವುದೇ ಪತ್ರ ಬಂದಿಲ್ಲ. ಇದರ

ಸಂಬಂಧದಲ್ಲಿ ಅವರಿಗೆ ಪತ್ರ ಬರೆಯಲಾಗಿದೆ. ಆದರೆ ಅವರಿಂದ

ಯಾವುದೇ ಉತ್ತರ ಬಂದಿಲ್ಲ. ಆದ್ದರಿಂದ ಈ ಪತ್ರವನ್ನು

ಅಂಚೆಯ ಮೂಲಕ

Complete (illegible)

27 — 3 — 93

27 — 3 — 93

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240

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3 ÷ 6

2 Ad 174 93

(General Series No. 38.)

1893 (4)

No. 2581

Name of Petitioner. Lakshmia
by Pet: D. Venkataramiya

Village. Bylahally

Taluk. Hassan

District. Do

Date of Appl. 11-4-93

Date of Receipt. 11-4-93

Date of Disposal.

No. of Enclosures. two

ABSTRACT.

Appeals against the Deputy Commrs order, dated 2nd Feb: 1893 ordering the registry of the Shanbhog of Bylahally Phuska in the name of the respondt Lakshmia + also ordering the Appellant to go to a civil Court instead of asking the Respondent to do so.

12/4.

Appellant is the father of the petitioner in No 2580 & 11-4-93 the order appealed against is the same as the order on which the appeal of the Son is based -

In time

Stamp put

Copy of order produced

Proceedings to be called for, write report

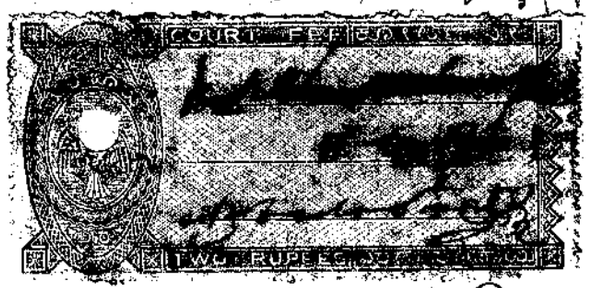
14/4 Reports [illegible]

Mysore Govt. Central Press Bangalore—7-92—1000

80

Presented by Advocate
M. Venkatramaiya's
Gumasta
11/4/93

Do



The Govt of Mysore Two Rupees Stamp. (3)
Bangalore
Rev: Appeal No 193

Appellant
Lukshmma alias
Shamanna Son of
Krishnappa residing
at Byrahully, Hassan
Taluk.

vs

Respondent
Lukshmma
Son of Chicka
Krishnappa,
residing at
Do Do

The abovenamed appellant begs to appeal against the order passed by the Dy Comr of Hassan Dy 2d Feb 93 on the following grounds:-

1. That the Dy Comr erred in ordering the registry of the Shanbogue of Byrahully Phirka in the name of the respondent.

2. That the appellant is the duly adopted son and that he did duties at such till the year 1880

3. That the deceased Lukshmma who did duties after 1880 performed them for & on behalf of the appellant

4. That after Lukshmmas death without

without heirs, the appellants' son Krishna
is doing the duties.

5. That the order of the Dy Comr
that the deceased Lukshima and
the respondent Lukshima were
"pantidars" is erroneous.

6. That the Dy Comr erred in
ordering the appellant to go to a
Civil Court instead of asking the
respondent to do so.

For these reasons the appt
prays that the order of the Dy
Comr may be set aside

Bangalore
11th April 93

D'Mello & Co
Advs for appt

Pet 1320

25-4-93

LR 174-92-3

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

(5)

The accompanying Petition No. 2581

dated 11-4-93 received at the

Dewan's Office from Lakshmayya alias Shamayya of Bylahalli, Hassan Taluk, appealing against the Hassan Dy. Comm's order Dis 781 & 2.2.93, regarding the office of Shanbhog of Bylahalli and two other villages

is forwarded, together with its one

enclosure, to the Deputy Commissioner, Hassan District, for submission of Proceedings with a report on the facts of the case and on the points taken in the petition.

2. The petition, with connexions should be returned.

By Order,

Draft (Councillor's order)

21/4

for Chief Secretary.

BANGALORE,
15 April 1893.

M. G. C. P. Bangalore.—21-11-92—3,000.

23

(General Serial No. 30.)

189 . 567-

15 JUL. 93

P. 32

Lr 174-92-14

From The actg Comm.
Rowan Hamilton visited

To (9)

The Chief Secretary to the Dewan of Mysore.

Dated 13

Despatched 3 July 1893

Received

Enclosures No. nil

General No. 46

No. Secy

In reply to

SUBJECT.

Submitting report on the petition of Lakshmamma alias Shamanna Shanbogue of Byalahally for the amount due on the Shanbogueship

Petn &c
Annexure 7

References (to be entered only in the Dewan's Office).

17/7/93

(9)

No. 46
Survey

Deputy Commissioners Office,
Hassan District.

Dated. Hassan, 13th July 1893.

From,

P. N. Purnaya Iyengar,
Deputy Commissioner
Hassan District.

To

The Chief Secretary to the
Government of Mysore
Bangalore.

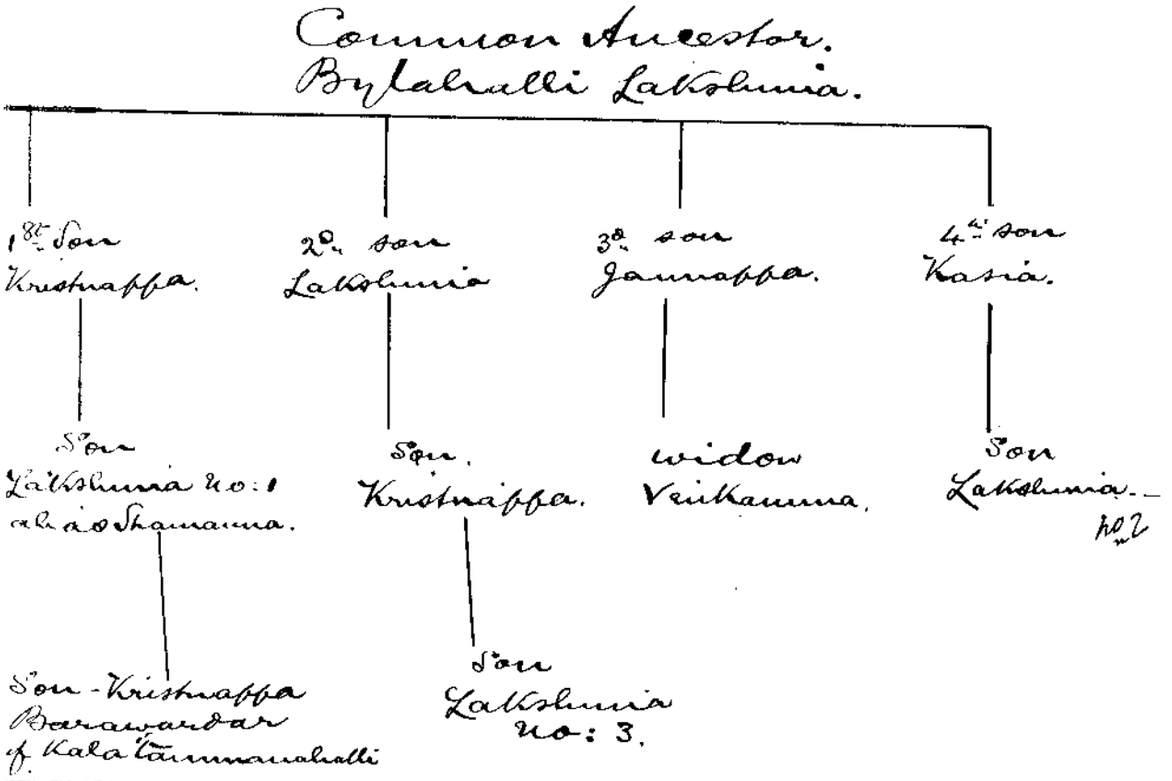
Sir,

Adverting to Ferwad memorandum No. 1320 Dated 21st April last, forwarding for report with Proceedings, Petition from Lakshmia alias Shamanna, Shanbogue of Byla-halli Firka, Hassan Taluk, I have the honor to report as follows:-

2— The Genealogical tree given below shews the relationship of the parties. Appellant is the grand-son of the Common Ancestor by the Senior branch. Respondent is

the.

the Great Grandson by the second branch. ——



3. The Shanbogue called before the Survey, Byalahalli Pirka, Com-prised of 14 villages viz:-

1 Kallahalli.
2 Varadapura.
3. Kalenahalli
4. Gadenahalli
5. Bandihalli.
6. Lokanahalli
7. Kamenahalli
8. Kalatammanahalli
9. Rangapura.
10. Byalahalli
11. Kammanahalli.
12. Manda Dasanaa-halli.
13. Chikkanahalli.
14. Appagodanahalli.

The Pirka had a total Revenue of Rupees

Rupees 3043-7-8. After the Survey it was split into two scales, the first charge called Byalahalli with 3 villages with a Beriz of Rupees 2120-"-9 and Potagi of Rs 68-12-" the second charge called Kala-Cammanahalli with 8 villages with a Beriz of Rs 1917-8-9 and Potagi of Rs 68-8-" —

4 — The past history discloses the following facts:-(1) Lakshma No 1, Appellant, did the duties of the office till 1874. In that year the Baraward was made in the name of his son Krishappa. Krishnappa did duties till 1880. In 1880, owing to his inability to manage, he gave half a share to Lakshmiah No 2, son of Kasia. Lakshma No 2 did duties till 1890, when he died. He left no Competent heirs and Krishnappa accepted Commenced once more to do the

—

the duties of Lakshmia No. 2nos charge. For this, however, he has had no order either from the Taluk or District Office. Lakshmia No 3 petitioned in the year 1890 that is to say a few months after, claiming to be put in charge of the office, in the right of Lakshmia No 2, son of Kasia.—

5 — The enquiry held on this Complaint shews, that of the four heirs of the Common ancestor, two namely, Lakshmia No 1 and Jamappa took up one share, which now forms the Fonka of Kalatammanahalli and Lakshmia No 3 and Lakshmia No 2, son of Kasia took up the other share, comprising the Fonka of Byalahalli. That, subsequent to the division effected in the

year

2

year 1880, Byalahalli Tarka became vested in two branches only of the family viz that of Lakshmanaya No. 3, representing Lakshmiya's branch and Lakshmia No 2 representing Kasia's branch. One of these branches viz Kasia's having failed, the representative of the surviving branch viz Lakshmia No. 3 became the sole heir for the divided Tarka of Byalahalli

6 — Lakshmia No 3 has filed a copy of a document purporting to be an agreement between Krishnappa and Lakshmanaya No 2, according to which Byalahalli Tarka was given for Lakshmia no two's father Kasia and his senior uncle Lakshmia of the 2d Branch; Kalattahunnana halli Tarka being retained for Appellant and his uncle —

Jannappa

Jannappa. The first and third branches according to this agreement took Kalatammanahalli Firka. The second and fourth branches took Bylahalli Firka. Krishnappa the Barawardar of Kalaltammanahalli Firka did not deny the execution of this Karar but seemed unwilling to admit it without qualification and therefore while on the one hand he had not entirely lost memory of it and could not go to the extent of denying it, he took time to look into his papers in order to do it which he never meant to do and therefore did not do. The original document remained away with the deceased Barawardar of Bylahalli Firka and therefore his nephew Lakshmia No 3 was only able to produce its copy. However, this copy is not refered to

to more than as an explanatory document of Krishnappa's petition, Dated September 20th 1880. - giving away half a share forming this Bylahalli Fenka to Lakshmia No 2 Sen of Kasia. This Karar is Dated, 12th September 1880, and the petition of Barawardar Krishnappa is Dated 20th of that very month. It clears up the history therefore and shews what circumstance took place before Krishnappa presented his petition above mentioned. In a regular en- -quiry either the original document could be produced or its Contents established by the testi- -mony of attesting witnesses But neceptity has not arisen for this as much as — Krishnappa has not denied the Karar absolutely and the Karar is not indefensable

for

for the adjudication of the claim which can be independently Considered and decided upon, for the Shaboque property was not divided till 1880 and in that year when division was effected; there were four heirs and there should have been four shares. If not for the ——— explanation afforded by the Karar, there will be no explanation for excluding nos 2 and 3 branches from participation in the shares. The division was effected just about the time of Survey Settlement, when scales were organized In this instance, as in any other the scales, where possible, always followed the prior distribution of villages by private arrangement of the share holders. In this instance, either because the Survey broke up

3

up the ancient Pirika into two Pirikas or because it recognized the pre-existing distribution into two shares, it is clear that Krishnappa divided the property and by his act showed that the Shanbaguru property was an ancestral property liable to division. Any Contention of his to the Contrary will be of no avail. Indeed, Krishnappa who gave the share is now on the back ground and does not appeal. Lakshmia No. 1 who is no longer Barawardar has no locus-standi to appeal. These technicalities may for the nonce be overlooked. As it is, as claimants of this undivided ancestral property, there are only two surviving branches with male heirs represented by Krishnappa Barawardar of Kalatammana-halli Pirika Appellants son and

and Lakshma No 3 who is now appointed Barawardar of Byjahalli Firka, there being no male descendants when the 3rd and 4th branches left. Whether as divided for each of these exclusively for himself or jointly for himself and another Collateral branch, the existing two Firkas have to be divided to the existing two branches, — one a piece.

7th Lakshmia No 1 (Appellant) or Krishnappa, his son, might contend as they do, that Lakshmia No 2 was not absolutely appointed for the divided share but that he was appointed some-what as a Gumasta, his responsibility for work not having ceased. This is an in-

-founded

unfounded Contention. The record clearly shows that Lakshmia No. two's appointment was un-qualified, that only for the year during which the nomination was made, Krishnappa was held answerable for the year's Annual accounts. —

8 — The advocate is not quite Correct in representing that the parties were referred to a Civil Court. The only statement made in the order is that it would be undesirable to force either party to a regular suit, in a case which is so clear and which the parties should understand and arrange amicably. If any one had to proceed by a regular suit, it will be the one who is not put in —

possession

possession of the office by the executive order. In this case, the Shanbhogueship of Bylahalli Purka became vacant by the death of the Barawardar and according to standing orders, if the Amildar had sent an appointment statement in the form prescribed by me, a nomination would have been made and Krishnappa would not have taken possession unauthorizedly. The claim is not so much for decreeing any right to any Shanbhogue but it is an application for nomination to a vacant office. Krishnappa or his father Lakshmia No 1 cannot be nominated, because, they have already a Purka

They

They hold no inherent right, so as to exclude every other heir of the family, because, the Shanbogue is an undivided ancestral property. Lakshmia No 3 now appointed for the vacant Fuika is the sole surviving heir other than Krishnappa and is competent. — The foregoing are the principal considerations for the appointment of No 3, Lakshmia, for the vacant Shanbogue. —

9 — The Vernacular papers ending with Kapan Amildar's report No 1495 Dated 6th Ultimo, are herewith submitted for reference and return. The enclosures of the memo under reply are also returned. —

I have the honor to be
Sir,
Your most obedient servant;

J. Duncan

Deputy Commissioner
Kaladgi Division

47 — Lr 174-92-5

Before the Government of *His Highness* the ~~Maharaja~~ of Mysore.

(11)

Appeal No. 258/of 1813 of 1893-94

Appellants	Vs.	Respondent.
1 Lakshmiah alias Shamanna 2 Krishnappa son of the 1st appellant Represented by Mr. D Venkatarāmayya advocate		Lakshmiah son of Krishnappa

Decision. dated 9th March 1894.

Respondent is the uncle's grandson of the 1st appellant and represents one branch of the family, and the appellants another. The Shanbhogi right belonging to the family in the two Taikas of Bailahalli and Kalatāmmanahalli stood registered in the name of the 1st appellant, but he got it transferred in the name of his son the 2d appellant in 1874. The 2d appellant got the

Bailahalli Zinka transferred in 1880 in the name of one Lakshmia son of Kania who represented a third branch of the family and the latter died in 1890 without issue. The Respondent claimed the registering of the deceased's Zinka in his name on the ground that it had been given to the deceased both on account of his share and that of his own (Respondents). In proof of his claim he produced copy of a document said to have been executed by the 2nd appellant in 1880 to the deceased Lakshmia in which it is stated that Bylahalli was given to him both on account of his share and that of the Respondent. The original

orginal document is not forthcoming and the 2nd appellant does not admit that he executed it. The Deputy Commissioner however seeing that Respondent is left without a share and believing his statements, ordered in February 1893 that Bylahalli be registered in the name of the Respondent. The appeal is against this order.

2. Government consider that in the absence of the original document said to have been executed by the 2nd appellant, admitting the claim of the Respondent, the Shembaga of the deceased Lakshmma can only be registered in the name of his nearest heir, the 1st

appellant, and direct that it be registered accordingly.

3. If the Respondent has any claim to a share in the Shambhogi of the two Pirkas, he should establish it by a regular suit.

By order

Redraft

Under Secretary 26/3

No 16335 / Rev. 113-93 — 24-3-94 / 29

Copy to the Deputy Commissioner Hassan Dist. with the records returned with his letter No. 46 dated 13th July 1893.

By order

Under Secretary

Secretary

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No. 2581 & 3360

30/3/94

MYSORE DEWAN'S OFFICE,
PETITION DEPARTMENT,
24th March 1894

Lr 174-92-6

(12)

Endorsement granted to Lakshmiya alias Shamanna and Krishnappa, son of the 1st appellant of Bylahalli, Hassan Taluk (by Mr. D Venkatramiah advocate

in reply to their Petition Registered No. 2581 & 3360 dated 11-4 and 16-6-93 appealing against the Hassan Dy: Commr's order dated 2nd Feby 93 regarding the Shanbhogi Vatan of Bylahalli & 2 other villages

Petitioners ~~is~~ are informed that the Deputy Commr: has been requested to register Bylahalli, last held by Lakshmiya son of Kasappa, in the name of his nearest heir, the 1st appellant. If Respondent has any claim to a share in the Shanbhogi, he should establish it by a regular suit.

The enclosures are returned

"By Order"

Chief Secretary.

Mysore Govt. Central Press, Bangalore,—9-2-93—2000.